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14 Counsel for Defendants

16 UNITED STATES DISTRICT COURT

17 SOUTHERN DISTRICT OF CALIFORNIA

18 In re GROUPON MARKETING AND
19 SALES PRACTICES LITIGATION

No. 3:11-md-02238-DMS-RBB

20 NOTICE OF MOTION AND JOINT
21 MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT

22 JUDGE: The Hon. Dana M. Sabraw

CTRM: 13A

23 DATE: October 9, 2015

24 TIME: 1:30 p.m.

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1 TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD

2 PLEASE TAKE NOTICE that, on October 9, 2015, at 1:30 p.m., or as soon
3 thereafter as the matter may be heard in the Courtroom 13A (13th Floor –
4 Carter/Keep) of the above-entitled Court, located at 333 West Broadway, Suite 1310,
5 San Diego, California 92101, plaintiffs Barrie Arliss, Nevin Booth, Julie Buckley,
6 Ashley Christensen, Jason Cohen, Adam Dremak, William Eidenmuller, Anthony
7 Ferreira, Sarah Gosling, Eli R. Johnson, Heather Kimel, Jeff Lawrie, Michael
8 McPherson, Sarah Mehel, Nicholas Spencer, Eric Terrell, Carlos Vazquez, and Brian
9 Zard (“Plaintiffs”), and defendants Groupon, Inc., Nordstrom Inc., Full Circle Farms,
10 Inc., The Gap, Inc., Spa Blix, Inc., Whirly West Inc. d/b/a/ WhirlyBall, Fun Time,
11 LLC d/b/a/ Wheel Fun Rentals, and YMCA of Metropolitan Washington
12 (“Defendants”) (collectively, the “Parties”), by and through their undersigned
13 attorneys, will and hereby does jointly move this Court for an order:

14 1. Granting preliminary approval of the Parties’ Stipulation of Class Action
15 Settlement (“Settlement Agreement”), as reflected in the proposed preliminary
16 approval order submitted herewith;

17 2. Granting conditional certification of the Settlement Class, pursuant to
18 Rules 23(a) and (b)(3),¹ comprised of all Persons who purchased or received one or
19 more Groupon Voucher for redemption at a Merchant (as defined in the Settlement
20 Agreement) in the United States, from November 2008 until December 1, 2011;

21 3. Appointing Plaintiffs to serve as the Settlement Class Representatives;

22 4. Confirming the appointment of the firm of Robbins Geller Rudman &
23 Dowd LLP as Class Counsel, pursuant to Rule 23(g);

24 5. Approving the Parties’ proposed form and method of notice to Settlement
25 Class Members (“Class Notice”);

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28 ¹ All references to “Rules” are to the Federal Rules of Civil Procedure.

6. Establishing a schedule for distributing the Class Notice and for Settlement Class Members to submit claims, object to, request exclusion from the Settlement Class, or withdraw claims previously submitted under the 2012 Proposed Settlement Agreement;

7. Deeming claims previously submitted by Settlement Class Members pursuant to the 2012 Proposed Settlement Agreement to be submitted under this Settlement Agreement;

8. Appointing Rust Consulting, Inc. as the Claims Administrator; and

9. Setting a hearing for the final approval of the Settlement Agreement and Class Counsel's application for an award of attorneys' fees and expenses.

This joint motion is based on this notice; the accompanying memorandum of points and authorities in support thereof, the Settlement Agreement and exhibits thereto; the Declaration of Shirli F .Weiss in support thereof; the Declaration of John J. Stoia, Jr., in support thereof; the complete file and record in this Action; the argument of counsel; and such other and further evidence and argument as the Court may request or may be presented to the Court at the time of the hearing.

DATED: September 11, 2015

Respectfully submitted,

DLA PIPER LLP (US)
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s/ Shirli Fabbri Weiss
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Counsel for Defendants

1 DATED: September 11, 2015

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9 Class Counsel

10 **ECF CERTIFICATION**

11 The filing attorney attests that she has obtained concurrence regarding the filing
12 of this document from the signatories to this document.

13 Dated: September 11, 2015

14 By: s/ Shirli Fabbri Weiss
SHIRLI FABBRI WEISS

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